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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,207	09/08/2003	Yuuji Ogihara	242307US6	7501
22850	7590	08/21/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
MACKALL, LARRY T				
ART UNIT		PAPER NUMBER		
2189				
NOTIFICATION DATE		DELIVERY MODE		
08/21/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/656,207

Applicant(s)

OGIHARA ET AL.

Examiner

LARRY T. MACKALL

Art Unit

2189

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. Examiner states for the record that no Information Disclosure Statement is presently filed in this application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1, 2, 6, 7, 8, 9, 13, and 14** are rejected under 35 U.S.C. 102(b) as being anticipated by **Momoh et al. (U.S. Patent# 5,991,777)**.

Consider **claims 1 and 8**, Momoh et al. disclose a information processing apparatus for reproducing an audio-only disk-shaped recording medium, said apparatus comprising: reproducing means for at least reproducing an audio data signal from said audio-only disk-shaped recording medium (**figure 2 - computer (34)**); storing means for storing data (**figure 2 – hard disk drive (41)**); and controlling means for controlling reproduction of audio data from said audio-only disk-shaped recording medium on the basis of control information stored in said storing means (**figure 4; column 11, lines 41-67 – the software and associated hardware is used to reproduce the audio data**); wherein said controlling means controls the reproduction of said audio data on the basis of

system controlling software stored in said storing means, said system controlling software comprising: an application layer for converting a request from application software into a predetermined command and outputting the command **(figure 3; column 10, lines 26-55 – client process (66))**; and a driver layer having a file system layer including an audio-only file system for generating a control command to be outputted to a device driver in a device layer at least for said reproducing means to read the audio data from said audio-only disk-shaped recording medium, to control a device corresponding to said command on the basis of said command inputted from said application layer **(figure 3; column 10, lines 26-55 – device driver (74), file system driver (72))**.

Consider **claims 2 and 9**, and as **applied to claims 1 and 8 above respectively**, Momoh et al. disclose that the file system layer outputs to said device layer a disk-related information readout control command to read out disk-related information having predetermined information related to recorded data recorded on said audio-only disk-shaped recording medium **(column 10, lines 36-55 – the file system driver issues a command to the device driver)**; and said file system layer generates a disk-related information file including additional information related to the recorded data recorded on said audio-only disk-shaped recording medium on the basis of the disk-related information outputted on the basis of said disk-related information readout control command **(column 10, lines 36-55 – the file system driver receives data back from the device driver in response to the request)**.

Consider **claims 6 and 13**, and as **applied to claims 1 and 8 above respectively**, Momoh et al. disclose that the file system layer is included in operating system software that controls said information processing apparatus (**figure 3; column 9, lines 41-44**).

Consider **claims 7 and 14**, and as **applied to claims 2 and 9 above respectively**, Momoh et al. disclose that the disk-related information is obtained from sub-code data read from said audio-only disk-shaped recording medium (**column 10, lines 36-55 – the file system driver receives data back from the device driver in response to the request**).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 3, 4, 10 and 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Momoh et al. (U.S. Patent# 5,991,777)** as applied to **claims 2 and 9 above respectively**, and further in view of **Johnson et al. (Pub. No. US 2002/0166056)**.

Consider **claims 3 and 10**, Momoh et al. disclose that the file system layer generates said disk-related information file such that said disk-related information file includes recording control information that is referred to when the recorded data recorded on said audio-only disk-shaped recording medium is to be recorded onto another recording medium (**figure 3; column 10, lines 36-55; column 15, lines 36-43 – the device driver returns data for the device to the file driver**).

Momoh et al. disclose how a read and write process passes commands and data between layers, but do not specifically disclose that this process is used in ripping a CD.

In the same field of endeavor, Johnson et al. disclose ripping data from a CD, storing it in memory of a player, and burning music stored in memory to another CD (**¶0085**).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the Momoh to include ripping and burning a CD in order to allow the music to be played without the disc being inserted and to allow the creation of backup discs.

Consider **claims 4 and 11**, and as **applied to claims 3 and 10 above respectively**, Momoh et al. disclose that the recording control information indicates that the recorded data recorded on said audio-only disk-shaped recording medium is allowed to be recorded onto another recording medium (**figure 3; column 10, lines 36-55; column 15, lines 36-43 – the device driver returns data for the device to the file driver; the attributes indicate that it is not protected**), said file system layer generates a control command to reproduce the recorded data from said audio-only disk-shaped recording medium, generates a recording control command to control another recording medium on which to record said recorded data, and outputs said generated recording control command to a device driver that controls recording means for recording the data onto said other recording medium (**figure 3; column 10, lines 36-55; column 15, lines 36-43 – the file system driver sends a request to write data to the device driver which causes data to be stored on the device**).

7. **Claims 5 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Momoh et al. (U.S. Patent# 5,991,777)** as **applied to claims 1 and 8 above respectively**, and further in view of **Liu et al. (U.S. Patent# 5,680,482)**.

Consider **claims 5 and 12**, Momoh et al. disclose all of the limitations of the parent claim but do not specifically disclose that file system layer further includes an ISO 9660 file system layer for allowing a disk-shaped recording medium on which computer data is recorded on the basis of an ISO 9660 format to be reproduced by said reproducing means.

In the same field of endeavor, Liu et al. disclose that the CDFS is an ISO 9660-compliant CD ROM file system (**column 9, lines 2-5**).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Momoh et al. to include an ISO 9660 format, because it is a standard format that allows multiple types of computers to access the same files.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LARRY T. MACKALL whose telephone number is (571)270-1172. The examiner can normally be reached on Monday through Friday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reginald G. Bragdon can be reached on (571) 272-4204. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Larry T Mackall
Examiner
Art Unit 2189

12 August 2009

/Larry T Mackall/
Examiner, Art Unit 2189

/Reginald G. Bragdon/
Supervisory Patent Examiner, Art Unit 2189